

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Attorney Docket No. 13315US02

In the Application of: MacInnis)	Electronically Filed
U.S. Serial No.: 10/034,414)	Date: July 28, 2008
Filed: December 27, 2001)	
Examiner: Phillippe, Gims)	
Group Art Unit: 2621)	
Confirmation: 1160)	

**APPEAL BRIEF AND RESPONSE TO NOTICE OF NON-COMPLIANT
APPEAL BRIEF**

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

This is an appeal from the Office Action made Final mailed March 21, 2007. A Notice of Appeal was filed with the United States Patent and Trademark Office on June 21, 2007. Additionally, a notice of non-compliant appeal brief was mailed on February 11, 2008 indicated that the appeal brief did not identify the status of all claims on appeal. Assignee respectfully submits that the status of all the claims is indicated on page 4 and in the Appendix.

TABLE OF CONTENTS

I.	REAL PARTY IN INTEREST	3
II.	RELATED APPEALS AND INTERFERENCES.....	3
III.	STATUS OF THE CLAIMS.....	3
IV.	STATUS OF AMENDMENTS	3
V.	SUMMARY OF CLAIMED SUBJECT MATTER	4
VI.	GROUND OF REJECTION TO BE REVIEWED ON APPEAL.....	7
VII.	ARGUMENT – APPELLANT REQUESTS WITHDRAWAL OF THE APPEAL FOR CLAIMS 1, 12, 13, AND 18 IS NOT ANTICIPATED BY MAIR.....	8
VIII.	CLAIM 19 IS NOT OBVIOUS FROM MAIR	8
IX.	CONCLUSION	10

I. REAL PARTY IN INTEREST

Broadcom Corporation, a corporation organized under the laws of the state of California and having a place of business at 16215 Alton Parkway, Irvine California 92618-3616, has acquired the entire right, title, and interest in and to the invention, the application, and any and all patents to be obtained therefore, as set forth in the Assignment filed with the present application and recorded on 2/20/2002 at Reel/Frame 012614/0045.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences with this case.

III. STATUS OF THE CLAIMS

Claims 1-18 were rejected under 35 U.S.C. § 102(b) as being anticipated from U.S. Patent Publication No. 2002/0186322 ("Mair").

Claims 19-21 were rejected under 35 U.S.C. § 103(a) as being obvious from Mair.

IV. STATUS OF AMENDMENTS

There are no amendments pending in the present application.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Features of the present invention may be found in a video encoding scheme supporting the transport of audio and auxiliary information.

Claim 1 is directed to a method of transmitting auxiliary data in video encoding comprising receiving first and second data; encoding said first data based on a state of at least one bit of said second data; and packaging said encoded first data and said second data into a single word; and communicating said single word.

Claim 1 is described in the specification, for example, a method of transmitting auxiliary data in video encoding comprising receiving first and second data is described at least in Paragraph 22 (“In one embodiment, system 100 includes the enhanced encoder 111 which receives a first and second data input in an un-encoded form”). The specification describes encoding said first data based on a state of at least one bit of said second data, at least in paragraph 27 (“If the second data bit(s) and the expected decoder instruction bit(s) do not match, the enhanced encoder 111 anticipated, based on the ‘J’ second data bits and the ‘K’ decoder instruction bits, the result of the decoding process to be applied by the unenhanced decoder 107 on the ‘N’ first data bits, and modifies at least one of the ‘N’ first data bits to counteract the result.”). The specification describes packaging said encoded first data and said second data into a single word, at least at Paragraph 22 (“Hereafter, the ‘N’ first data bits (with or without decoder compensation), ‘J’ second data bits and ‘K’ decoder

instruction bits are packaged into a word (N+J+K) for delivery.”). The specification describes communication said single word, at least at paragraph 22 (Typically the word is delivered or transmitted across a communication link such as a DVI interface for example to the enhanced decoder 105 or the un-enhanced decoder 107”).

Claim 12 is directed to a method for balancing a code word in a video encoder comprising receiving data; determining a particular state for said data; and encoding said data based on the particular state for the data.

Claim 12 is described in the specification, for example, a method of balancing a code word in a video encoder comprising receiving data is described in the specification at least at paragraph 31. The specification describes determining a particular state for said data at least at paragraphs 31-32. The specification describes encoding said data based on the particular state for the data, at least at paragraphs 32.

Claim 13 is directed to a method of balancing a code word in video encoder comprising receiving data; determining a particular state for said data; selecting a logic operation that will result in a state closest to said particular state; and performing said selected logic operation on at least a portion of said data.

Claim 13 is described in the specification, for example, a method of balancing a code word in video encoder comprising receiving data is described at least at paragraph 31. The specification describes determining a particular state for said data at least at paragraphs 31,32. The specification describes selecting a

logic operation that will result in a state closest to said particular state at least at paragraph 32. The specification describes performing said selected logic operation on at least a portion of said data at least at paragraph 32.

Claim 18 is directed to a system for transmitting auxiliary data in video encoding. The system comprises a receiver, an encoder, a packaging device and a communication device. The receiver is adapted to receive first and second data. The encoder is adapted to encode said first data based on at least one bit of said second data. The packaging device is adapted to package said encoded first and second data into a single word. The communication device is adapted to communicate said single word.

Claim 18 is described in the specification, for example, a system for transmitting auxiliary data in video encoding comprising comprises a receiver, an encoder, a packaging device and a communication device, is described at least at Figure 1. The receiver is adapted to receive first and second data. Figure 1, 1st Data Input, 2nd Data Input. The encoder is adapted to encode said first data based on at least one bit of said second data. Figure 1, 111, paragraph 27. The packaging device is adapted to package said encoded first and second data into a single word. Figure 1, Enhanced Data Word. The communication device is adapted to communicate said single word. Paragraph 22.

Claim 19 is directed to a system for transmitting auxiliary data in video encoding. The system comprises an un-enhanced encoder, an enhanced encoder; an un-enhanced decoder, and an enhanced decoder. The un-enhanced

decoder is adapted to communicate with said un-enhanced and enhanced encoders. The enhanced decoder is adapted to communicate with said un-enhanced and enhanced encoders.

Claim 19 is described in the specification for example a system for transmitting auxiliary data in video encoding comprising an un-enhanced encoder, an enhanced encoder; an un-enhanced decoder, and an enhanced decoder is described in Figure 1, (Un-Enhanced Encoder 101, Enhanced Encoder 111, Un-Enhanced Decoder 107, Enhanced Decoder 105). The un-enhanced decoder is adapted to communicate with said un-enhanced and enhanced encoders. Figure 1, Un-Enhanced Decoder 107. The enhanced decoder is adapted to communicate with said un-enhanced and enhanced encoders. Figure 1, Enhanced Decoder 105.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellant respectfully requests that the Board review the rejection of:

Claim 19 under 35 U.S.C. § 103(a) as obvious from Mair.

Appellant respectfully requests withdrawal of the appeal of the rejections to claims 1, 12, 13, and 18.

VII. ARGUMENT – APPELLANT REQUESTS WITHDRAWAL OF THE APPEAL FOR CLAIMS 1, 12, 13, AND 18 IS NOT ANTICIPATED BY MAIR

Claims 1, 12, 13, and 18 were rejected under 35 U.S.C. § 102(b) as anticipated by the Mair reference. The Mair reference was filed after the present application, but claims priority to the '924 provisional application which was filed before the present application. In the Final Office Action, claims 1, 12, 13, and 18 the limitations were read onto the Mair reference. Citing MPEP § 2136.03, Appellant argued that the 35 U.S.C. § 102(e) date for the Mair reference could not be the filing date of the provisional because no showing was made that the portions of the Mair reference that were relied upon to reject claims 1, 12, 13, and 18 were not supported by the '924 provisional application.

For the first time in the prosecution, Examiner purports to read the limitations of claim 1 onto the '924 provisional application. Examiner's Answer at 8-9. In view of this, Appellant respectfully withdraws the appeal of the rejections to claims 1, 12, 13, and 18.

VIII. CLAIM 19 IS NOT OBVIOUS FROM MAIR

Claim 19 was rejected under 35 U.S.C. § 103(a) as being obvious from Mair.

Claim 19 is reproduced below:

19. (Previously Presented) A system for transmitting auxiliary data in video encoding comprising:
an un-enhanced encoder;

an enhanced encoder;

an un-enhanced decoder adapted to communicate with said un-enhanced and enhanced encoders; and

an enhanced decoder adapted to communicate with said un-enhanced and enhanced encoders.

Although Examiner has read the limitations of claim 1 onto the '924 reference, Examiner has not read the limitations of claim 19 onto the '924 reference.

Accordingly, Appellant's reiterate that Examiner's use of Mair as prior art, in view of the reasoning in the Final Office Action is an error of law because Examiner does not even allege, much less establish, that the '924 properly supports the subject matter (e.g., Mair [0042], lines 4-6, [0033], lines 7-19, [0035], lines 7-16, [0042], and [0043]) relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. The fact that "the elements of the abstract of Mair's Publication (2002/0186322 A1) are found in the proposal (which is the provisional application)" is simply not the proper standard for determining whether the "critical reference date of" Mair "is the filing date of the provisional application".

Therefore, since the '924 Application does not properly support the subject matter relied upon to make the rejection, the 35 U.S.C. 102(e) critical date of Mair should not be the filing date of the '924 Application, but rather the filing date of the utility application, which is October 15, 2001. Since the present application has a priority date August 17, 2001, Mair is not prior art under 35 U.S.C. 102(e).

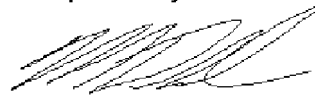
For the foregoing reasons, Appellant respectfully requests that the Board REVERSE the rejection to claim 19 and dependent claims 20 and 21.

IX. CONCLUSION

For the foregoing reasons, all of the pending claims are distinguishable over the prior art of record. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge \$500 for the Appeal Brief fee and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,



Mirut P. Dalal
Registration No. 44,052
Attorney for Appellant

Dated: July 28, 2008

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, IL 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100

CLAIMS APPENDIX

1. (Previously Presented) A method of transmitting auxiliary data in video encoding comprising:

receiving first and second data;

encoding said first data based on a state of at least one bit of said second data; and

packaging said encoded first data and said second data into a single word; and

communicating said single word.

2. (Previously Presented) The method of claim 1, further comprising DC balancing said first data.

3. (Previously Presented) The method of Claim 1, wherein encoding said first data further comprises determining whether said first data should be inverted.

4. (Previously Presented) The method of Claim 3, wherein encoding said first data further comprises comparing a state of inversion of said first data to said state of said at least one bit of said second data.

5. (Previously Presented) The method of Claim 4, wherein encoding said first data further comprises inverting said first data if said state of inversion of said first data does not match said state of said at least one bit of said second data.

6. (Previously Presented) The method of Claim 4, wherein encoding said first data bit further comprises not inverting said first data if said state of inversion of said first data matches said state of said at least one bit of said second data.

7. (Previously Presented) The method of Claim 1, wherein encoding said first data comprises determining an intermediate value for said first data.

8. (Previously Presented) The method of Claim 7, wherein encoding said first data further comprises comparing said intermediate value to at least one bit of audio data.

9. (Previously Presented) The method of Claim 8, wherein encoding said first data further comprises encoding said first data and said audio data if said state of inversion of said first data bit is equal to said at least one bit of audio data.

10. (Previously Presented) The method of Claim 7, wherein encoding said first data further comprises inverting said first data if said state of inversion of said first data does not match said state of said at least one bit of audio data.

11. (Previously Presented) The method of Claim 10, wherein encoding said first data further comprises encoding said inverted first data and said at least one bit of audio data.

12. (Previously Presented) A method of balancing a code word in a video encoder comprising:

receiving data;

determining a particular state for said data; and

encoding said data based on the particular state for the data.

13. (Previously Presented) A method of balancing a code word in video encoder comprising:

receiving data;

determining a particular state for said data;

selecting a logic operation that will result in a state closest to said particular state; and

performing said selected logic operation on at least a portion of said data.

14. (Previously Presented) The system of Claim 13, wherein performing said logic operation comprises performing an exclusive nor operation.

15. (Previously Presented) The system of Claim 13, wherein said desired state includes data having a strong 1 presence.

16. (Previously Presented) The system of Claim 13, wherein performing said logic operation comprises performing an exclusive or operation.

17. (Previously Presented) The system of Claim 13, wherein said desired state includes data having a strong 0 presence.

18. (Previously Presented) A system for transmitting auxiliary data in video encoding comprising:

a receiver adapted to receive first and second data;

an encoder adapted to encode said first data based on at least one bit of said second data;

a packaging device adapted to package said encoded first and second data into a single word; and

a communication device adapted to communicate said single word.

19. (Previously Presented) A system for transmitting auxiliary data in video encoding comprising:

an un-enhanced encoder;

an enhanced encoder;

an un-enhanced decoder adapted to communicate with said un-enhanced and enhanced encoders; and

an enhanced decoder adapted to communicate with said un-enhanced and enhanced encoders.

20. (Previously Presented) The system of Claim 19, wherein said enhanced decoder is adapted to communicate enhanced data word.

21. (Previously Presented) The system of Claim 19, wherein said un-enhanced encoder is adapted to communicate un-enhanced data word.

EVIDENCE APPENDIX

(None)

RELATED PROCEEDINGS APPENDIX

(None).